

## Article - Natural Resources

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§4-1019.2.

(a) This section does not apply to:

(1) An individual who takes or uses oysters for personal use or consumption purposes; or

(2) Old oyster shells that are dredged from the Chesapeake Bay or its tributaries.

(b) Except as provided in subsection (c) of this section, any licensed oyster dealer shall reserve for 8 months after the opening of each annual public shellfish fishery season all shells of oysters harvested from the Chesapeake Bay or its tributaries and commercially shucked in the State for purchase by the Department for oyster restoration, unless the dealer plants or provides the shells for planting:

(1) In an area privately leased for aquaculture purposes;

(2) On riparian bottom as provided in § 4-11A-17 of this title for the propagation of oysters; or

(3) On public shellfish fishery areas designated by the Department.

(c) (1) The Department shall determine whether sufficient funds are available for the Oyster Shell Purchase Program under this section.

(2) The Department shall notify every licensed oyster dealer not later than September 1 of each year whether the Oyster Shell Purchase Program will be carried out during the ensuing license year.

(3) If the Department does not notify licensed oyster dealers that the Oyster Shell Purchase Program will be carried out during the ensuing license year, a licensed oyster dealer may sell or dispose of fresh oyster shell at any time to any person for any lawful purpose.

(4) The Department shall:

(i) Establish procedures for the expeditious notice, payment, and removal of shells purchased; and

(ii) Provide for the transportation, storage, and placement on public oyster bars in State waters.

(d) All existing contracts executed prior to July 1, 1988 concerning the purchase of oyster shell shall be valid and exempt from the provisions of this section for the length of time for which the contract covers.

(e) Unless permission has been obtained from the Department, it shall be unlawful for any person to take or catch oysters or shell in any of the waters of the State for the purpose of converting the oysters or shell into lime, chickenmeal, or road construction materials.

(f) (1) In consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, the Department shall determine annually the fair market value that the Department pays for:

(i) Fresh oyster shells; and

(ii) Transportation and placement of fresh oyster shells.

(2) The Secretary shall adopt regulations to implement the requirement set forth in paragraph (1) of this subsection.

(g) The Department may use the Fisheries Research and Development Fund to purchase oyster shells.

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